



1700 PNC PLAZA  
500 WEST JEFFERSON STREET  
LOUISVILLE, KENTUCKY 40202-2874  
(502) 582-1601  
FAX (502) 581-9564  
www.ogdenlaw.com

J. GREGORY CORNETT

DIRECT DIAL (502) 560-4210  
DIRECT FAX (502) 627-8710

gcornett@ogdenlaw.com

January 14, 2004

**VIA HAND DELIVERY**

Mr. Thomas M. Dorman  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602

RECEIVED

JAN 14 2004

PUBLIC SERVICE  
COMMISSION

**RE: *In the Matter of: Petition and Complaint of Cumberland Valley Electric Concerning Service by Kentucky Utilities, Inc. [sic] in Contravention of KRS 278.016-018 and KRS 278.020***  
**KPSC Case No. 2004-00030**

Dear Mr. Dorman:

Enclosed please find and accept for filing the original and ten (10) copies of Kentucky Utilities Company's Motion to Hold Matter in Abeyance. This is a new action filed by Cumberland Valley Electric, Inc., in the above-referenced matter, which has not been assigned a number by the Commission. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copy and return it to me in the enclosed self-addressed stamped envelope.

Should you have any questions or need any additional information, please contact me at your convenience.

Yours very truly,

  
J. Gregory Cornett

JGC/

Enclosures

cc: Parties of Record (w/ encl.)  
Richard G. Raff, Esq. (w/ encl.)  
Linda S. Portasik, Esq. (w/ encl.)

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

JAN 14 2004

PUBLIC SERVICE  
COMMISSION

In the Matter of:

PETITION AND COMPLAINT OF  
CUMBERLAND VALLEY ELECTRIC  
CONCERNING SERVICE BY KENTUCKY  
UTILITIES, INC. IN CONTRAVENTION  
OF KRS 278.016-018 AND KRS 278.020

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CASE NO: 2004-00030

MOTION OF KENTUCKY UTILITIES COMPANY  
TO HOLD MATTER IN ABEYANCE

Kentucky Utilities Company (“KU”), by counsel and without waiver of any defenses in or to this action, moves the Commission to enter an Order holding this matter in complete abeyance pending the Commission’s entry of an Order resolving service rights in Case No. 2003-00226, *In the Matter of: Petition of CTA Acoustics, Inc. to Retain Kentucky Utilities Company as Power Supplier and For Expedited Treatment* (the “CTA proceeding”). As explained in detail below, the Commission’s resolution of the CTA proceeding (which is scheduled for a hearing on January 22, 2004) could render the Petition and Complaint in this matter entirely moot, and holding this matter in abeyance would conserve the time and resources of the parties and the Commission and would not prejudice the rights of petitioner Cumberland Valley Electric (“CVE”).

CVE’s Petition and Complaint in this matter contests KU’s service to the speculative building on the Southeast Kentucky Regional Business Park (“Business Park” or “the Park”).<sup>1</sup>

<sup>1</sup> KU has been providing service to the speculative building for approximately one year, apparently with CVE’s full knowledge. See CVE Response to KU Initial Request for Information No. 25. The timing of CVE’s decision to file its Petition and Complaint, which came only two weeks before the hearing in the CTA proceeding, is thus quite curious. The timing of that filing aside, however, KU fully expects that the Commission, if it ultimately considers the substance of CVE’s Petition and Complaint, will find that filing to be wholly without merit. CVE’s Petition and

KU's service to the speculative building has already been raised by CVE, and addressed by KU, in discovery and pre-filed testimony in the CTA proceeding. And, as the Commission is aware, and indeed has already ruled, the CTA proceeding involves the question of service rights to the entire Park. See Commission Order of December 16, 2003 in the CTA proceeding. If the Commission determines the Business Park to be a single electric-consuming facility, then the Commission will award the right to provide service to the Park to either KU or CVE, and the individual question of service rights to the speculative building on the Park, and thus CVE's Complaint and Petition in this case, will be entirely moot. It is only appropriate, therefore, to hold the present proceeding in abeyance pending a final ruling by the Commission in the CTA proceeding.<sup>2</sup> Otherwise, the parties, Commission Staff and the Commission will expend time and resources on a matter which may well be decided by the CTA proceeding. If the CTA proceeding is resolved by the Commission in a manner which decides the service rights to the entire Park, then the present proceeding will be moot and can be dismissed, and if the Commission's final order in the CTA proceeding does not resolve the service rights to the whole Park, then this proceeding can move forward at that time.

And, holding the present matter in abeyance will not prejudice CVE in any way. As noted earlier, CVE has known about KU's service to the speculative building for about a year, but has chosen not to contest that service until now. There is no allegation, much less any proof,

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Complaint is based on the premise that KU's three-phase line, which runs west to east along the northern edge of the Park and was completed in October 2002, was built for the purpose of serving the speculative building. That premise is absolutely false, and for that reason and others, CVE's position regarding service to the speculative building is factually erroneous and legally without merit.

<sup>2</sup> CVE might contend that the two proceedings should be consolidated. At this point, however, consolidation is not feasible and would only serve to prejudice the rights of KU. Although there is clearly some overlap between this proceeding and the CTA proceeding, CVE has made numerous statements in its Petition and Complaint, along with the prefiled testimony, in this proceeding with which KU takes serious issue, and KU wants, and is entitled to, test those statements through discovery and to file responsive testimony. The CTA proceeding is, after several previous delays, scheduled to be heard on January 22, 2004, there is insufficient time to allow KU to conduct discovery and file responsive testimony in this proceeding before the CTA hearing, and KU would object to any further continuance of the CTA proceeding.

offered by CVE of any urgency with regard to its Petition and Complaint. And, because the Commission will likely issue a final ruling in the CTA proceeding by February 25, 2004, the date on which the Commission's Interim Order of July 21, 2003 (as extended by the Commission's Order of December 23, 2003) in the CTA proceeding is set to expire, it will only be approximately six weeks before this matter is either rendered moot and can be dismissed, or is able to proceed forward through discovery and a hearing.

**WHEREFORE**, for all of the reasons set forth above, Kentucky Utilities Company respectfully requests the Commission to enter an order holding this proceeding in complete abeyance until the Commission enters a final order in the CTA proceeding.



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J. Gregory Cornett  
OGDEN NEWELL & WELCH PLLC  
1700 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202  
(502) 582-1601

Linda S. Portasik  
LG&E Energy LLC  
220 East Main St.  
Louisville, Kentucky 40202

Counsel for Kentucky Utilities Company

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing Motion was served via U.S. Mail, postage prepaid, this 14<sup>th</sup> day of January 2004, upon the following:

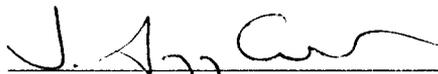
C. Kent Hatfield, Esq.  
Stoll Keenon & Park  
2650 Aegon Center  
400 West Main Street  
Louisville, Kentucky 40202

James Tomaw, Esq.  
Tomaw Law Office, LLC  
606 Master Street  
Corbin, Kentucky 40701

Anthony G. Martin, Esq.  
Post Office Box 1812  
Lexington, Kentucky 40588-1812

Ted Hampton  
Manager  
Cumberland Valley Electric, Inc.  
Post Office Box 440  
Gray, Kentucky 40734

R.S. Terrell  
Corbin Office of Economic Development  
101 North Depot Street  
Corbin, Kentucky 40701

  
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Counsel for Kentucky Utilities Company